IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI

THE ACTING CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION Nos. 11214, 11272, 11273, 11291, 11292 and 11294 of 2005.

WRIT PETITION No. 11214 of 2005

Between:

M/s.Johnson Lifts Ltd., now M/s.Johnson Lifts Pvt.Ltd., incorporated under Companies Act, 1956 having its
registered Office at No.1, East Main Road, Anna Nagar, West Extension, Chennai-600 101, rep., by its General
Power of Attorney Mr.G.Balakrishnan, s/o late V.Ganapathy, r/o No.38, Street No.47,Chennai.

..... PETITIONER

AND

The Deputy Commissioner (CT), Punjagutta Circle, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ or order or direction more particularly in the nature of Mandamus, declaring the initiation of revisional proceedings by the Deputy Commissioner U/s.20 of the APGST Act as without jurisdiction and accordingly set aside the notice RR No.1/2005-2006 dt.21.04.2005 issued by the Deputy Commissioner (CT), Punjagutta Circle, Hyderabad and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

WRIT PETITION NO : 11272 of 2005

Between:

M/s. Johnson Lifts ltd Now M/s. Johnson Lifts Pvt. Ltd. incorporated under Companies act, 1956 having its registered
Office at No.1 East Main Road, Anna Nagar, West extension, Chennai - 600 101,rep.by its General Power of Attorney,
Mr.G. Balakrishnan, S/o. late V.Ganapathy, age :42 years , R/o. 38, Street No.47, Ashoknagar, Chennai - 600 083.

..... PETITIONER

AND

The Deputy Commissioner (CT)
Punjgutta Circle , Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ or order or direction more particularly in the nature of Mandamus, declaring the initiation of revisional proceedings by the Deputy Commissioner U/s. 20 of the APGST Act as being without jurisdiction and accordingly set aside the notice RRNo.2/2005-2006 dt.21.4.2005 issued by the Deputy Commissioner (CT), Punjagutta Circle, Hyderabad.

WRIT PETITION No. 11273 of 2005

Between:

M/s. Johnson Lifts Ltd., Now M/s. Johnson Lifts Pvt. Ltd.,
registered office at No.1, East Main Road, Anna Nagar, West Extension, Chennai-600 101, Rep. by its General Power of Attorney Mr.G. Balakrishnan S/o.Late V. Ganapathy, 42yrs,R/o.No.38, Street No.47,Ashoknagar, Chennai-600 083.

..... PETITIONER

AND

The Deputy Commissioner (CT), Punjgutta Circle, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ or order or direction more particularly in the nature of Mandamus, declaring the initiation of revisional proceedings by the Deputy Commissioner U/s. 20 of the APGST Act as being without jurisdiction and accordingly set aside the notice RR No.3/2005-2006 dt. 21-4-2005 issued by the Deputy Commissioner (CT), Punjagutta Circle, Hyderabad.

WRIT PETITION No. 11291 of 2005

Between:

M/s. Johnson Lifts Ltd., now M/s.Johnson Lifts Pvt.Ltd., incorporated under Companies Act,1956 having its regd.
Office at No.1, East Main Road, Anna Nagar, West Extension, Chennai-600 101, rep., by its GPA Mr.G.Balakrishnan,
s/o late V.Ganapathy, age 42 yrs.r/o No.38,Street No.47, Ashoknagar, Chennai-600 083.

..... PETITIONER

AND

The Deputy Commissioner (CT), Punjagutta Circle, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ or order or direction more particularly in the nature of mandamus, declaring the initiation of revisional proceedings by the Deputy Commissioner U/s.20 of the APGST Act as being without jurisdiction and accordingly set aside the notice RR No.6/2005-2006 dt.2.05.2005 issued by the Deputy Commissioner (CT), Punjagutta Circle, Hyderabad.

WRIT PETITION No. 11292 of 2005

Between:

M/s. Johnson Lifts Limited, Now M/s. Johnson Lifts Private Limited,
Office at No.1, East Main Road, Anna Nagar, West Extension, Chennai- 600 101,
Rep. by its General Power of Attorney
Mr. G. Balakrishnan, S/o. Late V. Ganapathy, Aged 42 Years R/o. No. 38, Street No. 47, Ashoknagar, Chennai, 600 083.

..... PETITIONER

AND

The Deputy Commissioner (CT), Punjgutta circle, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate Writ or order or direction more particularly in the nature of Mandamus, declaring the initiation of revisional proceedings by the Deputy Commissioner U/s. 20 of the APGST Act as being without jurisdiction and accordingly set aside the notice RR No. 5/2005-2006 dt. 2-05-2005 issued by the Deputy Commissioner (CT), Punjagutta Circle, Hyderabad.

WRIT PETITION No. 11294 of 2005

Between:

M/s Johnson Lifts Ltd, Now M/s Johnson Lifts Pvt. Ltd, incorporated under Companies Act, 1956 having its registered office at No.1, East Main Road, Anna Nagar, West Extension, Chennai-101,
Rep. by its GPA Mr. G. Balakrishnan S/o Late V.Ganapathy, 42 yrs, R/o No.38,ST.47, Ashok Nagar Chjennai- 600 083.

..... PETITIONER

AND

The Deputy Commissioner (CT), Punjagutta Circle, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ or order or direction more particularly in the nature of Mandamus, declaring the initiation of revisional proceedings by the Deputy Commissioner U/s 20 of the APGST Act as being without jurisdiction and accordingly set aside the notice RR No.4/2005-2006 dt. 27-4-2005 issued by the Deputy Commissioner (CT), Punjagutta Circle, Hyderabad.

Counsel for the Petitioner: Mr. S.R.Ashok, Senior Advocate,

in all the cases. : for Mr.S.CHAKRAPANI

Counsel for the Respondent: GP FOR COMMERCIAL TAXES

in all the cases.

The Court made the following :

ORAL COMMON ORDER:

(per Honourable Sri Bilal Nazki, the Acting Chief Justice)

Heard the learned counsel for parties.

Revision notices have been issued by the Deputy Commissioner to the petitioner and without appearing before him, the petitioner has filed the writ petitions stating that it is not liable to pay tax on the basis of the judgment of the Supreme Court. The learned counsel for the petitioners, however, admits that the petitioner is assessable to sales tax by virtue of the judgment of the Supreme Court in **State of Andhra Pradesh v. Kone Elevators (I) Limited (SC).** He further submits that this judgment has been doubted by a Co-ordinate Bench of the Supreme Court and has been referred to a Larger Bench. In this view of the matter, the impugned notices are bad.

We fail to appreciate the argument made by the learned Senior Counsel. Whether "A" judgment applies to the facts or B judgment and what is the effect of a doubt having been expressed by the Supreme Court about the latest judgment of the Supreme Court are matters that can be agitated before the authority who has issued the notice. We have, however, no doubt in our mind that on the basis of Law of Precedents, the latest judgment of the Supreme Court would apply and not an order of reference made by another Bench expressing doubt about the judgment, unless the judgment is held to be bad by a Larger Bench. With these observations, we dispose of the Writ Petitions. The petitioner is, however, entitled to take all pleas available to it before the respondent and it is granted four weeks time to file objections.

BILAL NAZKI, ACJ.

22.6.2005

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G.CHANDRAIAH, J.

VR

To

1.The Deputy Commissioner (CT), Punjagutta Circle, Hyderabad.

2. Two CCs to the Government Pleader for Commercial Taxes, High Court Buildings, Hyderabad (OUT).

3. 2 CD copies

4. 1 CC to Mr. CHAKRAPANI

*Form-NIC-OGS/WP{**RS**}*